

**PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-015-00280C

Parcel No. 320007296001000

Duane Murphy,

Appellant,

vs.

Cass County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on March 16, 2020. Duane Murphy was self-represented. Attorney Brett Ryan represented the Cass County Board of Review.

Duane and Vicki Murphy own a commercial property located at 785 Main Street, Anita, Iowa. The subject parcel's January 1, 2019 assessed value was set at \$51,668. (Exs. A & B). Duane Murphy petitioned the Board of Review asserting a portion of the subject property is not subject to assessment. Iowa Code § 441.37(1)(a)(3). The Board of Review denied the claim.

Murphy then reasserted his claim to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2019). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701-126.2(2-4). PAAB determines anew all questions arising before the Board of Review related to the liability of the property to

assessment or the assessed amount. § 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005).

Findings of Fact

The subject property is a two-story, small retail store built in 1900 with 3000 square feet of gross building area. It is listed as grade 5+00 (below-average) quality in above-normal condition. The improvements also include a 160-square-foot shed with an attached 80-square-foot porch built in 2016. The site is 0.08 acres. (Ex. A). The depreciated assessed value of the shed and porch is \$4,520. (Ex. A, p. 4).

Murphy does not believe the shed on the subject property is subject to taxation. He testified the shed was built in Missouri, delivered to the subject property by truck, and then placed on the subject site. He submitted photographs of the shed showing it appears to have timber skids that are, in turn, placed on gravel. (Ex. 6). Murphy testified the gravel at that location was not prepared in any manner, but was the result of spread from snow plowing. We note photographs included with the property record card show the shed is located to the rear of the store on what appears to be a gravel driveway.

Murphy believes the shed is not set upon a foundation and the shed is not attached in any manner to the subject site. He argues it is simply set on the site and can be readily removed. (Ex. 6). He testified the shed is also not attached to electrical service. Murphy testified the shed was designed to be removed either by pulling it or loading it onto a trailer. He explained his wife uses the shed to store business items and if or when they sell the building, they intend to “load it up and take it somewhere else.” Murphy submitted several definitions of the term foundation, portions of building codes and manuals, and excerpts of Iowa code sections. (Exs. 1-5, & C).

Cass County Assessor Brenda Nelson testified for the Board of Review. Nelson testified the shed is set on a gravel base and used by the property owners. Nelson acknowledged the shed was built off site and moved onto the subject site but believes this is common of many types of structures, such as prefabricated dwellings. In her

years of experience, she has never seen a shed removed as personal property after the sale of real estate.

The Board of Review submitted three properties of other Cass County properties that have sheds, which are assessed. The following table summarizes the properties. (Ex. E).

Comparable	Shed Size (SF)	Year Built	Depreciated Assessed Value	Last Date of Sale
Subject	160/porch	2016	\$4,520	Jun-94
1 - 901 4th St	154	1940	\$1,620	May-07
2 - 1305 Main St	300/porch	2013	\$4,440	Oct-09
3 - 701 7th St	120	2002	\$1,260	N/A

Nelson testified that when these properties sold the sheds remained, therefore she does not believe they are ordinarily removed and are part of the real estate. We note in the case of Comparable 2, the shed was constructed after it last sold; although the property transferred with no consideration in September 2013.

There is no evidence in the record as to whether the comparable properties' sheds are attached to the site or sit on a permanent foundation. Nelson also did not know if any of these sheds had a foundation.

Conclusions of Law

Murphy asserts the shed located on his property is not assessable or exempt from property tax under section 441.37(1)(a)(3). Murphy bears the burden of proof. § 441.21(3); *Wendling Quarries, Inc. v. Property Assessment Appeal Bd.*, 865 N.W.2d 635, 638-39 (Iowa Ct. App. 2015).

In pertinent part, Iowa Code section 427A.1(1) states:

For the purposes of property taxation only, the following shall be assessed and taxed, unless otherwise qualified for exemption as real property:

a....

b....

c. Buildings, structures, or improvements, any of which are constructed on or in the land, attached to the land, or placed upon a foundation whether or not attached to the foundation.

d....

For the purposes of section 427A.1(1), “attached” means:

- a. Connected by an adhesive preparation.
- b. Connected in a manner so that disconnecting requires the removal of one or more fastening devices, other than electric plugs.
- c. Connected in a manner so that removal requires substantial modification or alteration of the property removed or the property from which it is removed.

§ 427A.1(2).

Notwithstanding this definition, “property is not ‘attached’ if it is a kind of property which would ordinarily be removed when the owner of the property moves to another location. In making this determination the assessing authority shall not take into account the intent of the particular owner.” § 427A.1(3).

Acknowledging the subject property’s shed is a building, Murphy asserts the shed is not assessable because it is not constructed on or in the land, is not attached to the land, and is not placed upon a foundation. Even if considered to be attached, Murphy argues the shed would be ordinarily removed under section 427A.1(3) and is therefore not assessable. We find there is no basis to conclude the subject property is “attached to the land”¹ and therefore we only consider whether the shed can be considered to be “constructed on or in the land” or “placed upon a foundation whether or not attached to the foundation.”

Murphy offered several definitions of foundation. (Ex. 1). Webster’s New World College Dictionary states, “a supporting material or part beneath an outer part.” The Encyclopedia Britannica describes a foundation as “part of a structural system that supports and anchors the superstructure of a building and transmits its loads directly to the earth.”

¹ Because attachment is not at-issue, we do not consider whether the shed would be ordinarily removed.

Additionally, we note THE DICTIONARY OF REAL ESTATE APPRAISAL defines foundation as follows:

The base on which something is built; the part of a structure on which the building is erected; the part of a building that is below the surface of the ground and on which the superstructure rests.

APPRAISAL INSTITUTE, THE DICTIONARY OF REAL ESTATE APPRAISAL 377 (5th ed. 2010).

He submitted an excerpt of building specifications from the Iowa Department of Transportation. (Ex. 2). It appears this excerpt may come from a manual providing specifications for highway and bridge construction, which we do not find relevant to this matter. He provided a similar excerpts of sections from the International Building Code. (Ex. 3). We note the provided sections indicate timber footing can be used as a foundation in certain circumstances. Further, the document also suggests that a building of the subject's size (less than 400 square feet) may not require protection from frost and thereby would not require a foundation extending below the frost line.

It is Murphy's burden to show the shed is not assessable. § 441.21(3). Having considered his arguments and the definitions and sources provided, we are not persuaded the shed is not assessable. The shed has timber skids that are set up on a gravel base that together serves as an adequate shed foundation given its size. Although Murphy testified the gravel base was not prepared but resulted from gravel spread, the shed is nonetheless set upon it. In total, we believe the shed qualifies as a building or structure constructed in or on the land, or placed upon a foundation whether or not attached to the foundation.

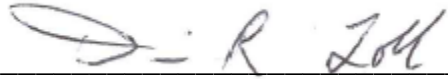
Order

PAAB HEREBY AFFIRMS the Board of Review action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order² and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

Copies to:

Duane Murphy by eFile

Brett Ryan for Cass Board of Review by eFile

² Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court. Please visit the Iowa Judicial Branch website at <https://www.iowacourts.gov/iowa-courts/supreme-court/orders/> for the most recent Iowa Supreme Court orders.